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12 CIV 9417



Attorneys for Petitioner, Crystal Pool AS

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

Crystal Pool AS,

Petitioner,

v.

Trefin Tankers Ltd.,

Respondent.

Case No. 12 - CV - _____

**VERIFIED PETITION TO
APPOINT AN ARBITRATOR AND
COMPEL ARBITRATION**

The Verified Petition of CRYSTAL POOL AS ("Owner" or "Petitioner"). by and through its attorneys, Holland & Knight LLP, respectfully alleges, upon information and belief, as follows:

1. This is a case of admiralty and maritime jurisdiction pursuant to 28 U.S.C. § 1333 and is a maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure.
2. At all times material herein, Petitioner was and is a business entity organized and existing under the laws of the Kingdom of Norway.
3. At all times material herein, upon information and belief, TREFIN TANKERS LTD. ("Charterer" or "Respondent") was and is a business entity organized and existing under the laws of the country of Greece, maintaining a place of business at Ag. Dimitriou Str. No. 41, 185 46, Piraeus, Greece.

CRYSTAL AMBRA CHARTER

4. Petitioner, the disponent owner¹ of the M/V CRYSTAL AMBRA, and Respondent agreed to a time charter of the Vessel dated March 7, 2012, as memorialized by Fixture note 23120130 (the "Crystal Ambra Charter"), for a voyage from Augusta to Rotterdam. The Crystal Ambra Charter provides for freight in the amount of USD 61.50 per metric ton and demurrage in the amount of USD 10,500 per day, pro rata.

5. The Crystal Ambra Charter is based on the ExxonMobil VOY2005 form. Clause 35 of the ExxonMobil VOY2005 form, entitled " Arbitration," provides that arbitration of disputes shall take place in New York pursuant to New York law. With respect to the appointment of arbitrators, clause 35 provides:

Any and all differences and disputes of whatsoever nature arising out of this Charter shall be put to arbitration in the City of New York, pursuant to the laws relating to arbitration there in force, before a board of three persons, consisting of one arbitrator to be appointed by Owner, one by Charterer and one by the two so chosen.

6. Petitioner performed all duties arising under the Crystal Ambra Charter.

7. Since the date the Crystal Ambra Charter was executed, a number of disputes have arisen between the parties, including but not limited to disputes over Respondent's failure to pay Petitioner the freight, demurrage, and other costs duly owing. More particularly, four (4) invoices remain outstanding as set forth below:

- a) Freight Invoice, dated March 19, 2012 (EUR 124,163.88);
- b) Costs Invoice, dated June 4, 2012 (EUR 2,875.50);
- c) Demurrage Invoice, dated June 14, 2012 (EUR 37,278.00);

¹ A disponent owner is the person or company who controls the commercial operation of a vessel. Very often, the disponent owner is not the registered owner having title to the vessel but a party who has previously chartered the vessel from the registered owner or another charterer. Peter Brodie, *DICTIONARY OF SHIPPING* (4th ed 2003). In turn, the disponent owner can then charter (lease) the vessel to another party, i.e., the charterer.

d) Costs Invoice, dated June 29, 2012 (EUR 2,284.75).

The total that remains outstanding from Respondent with respect to the Crystal Ambra Charter is EUR 166,602.13.²

8. In connection with these disputes, on or about October 11, 2012, Petitioner, pursuant to the Crystal Ambra Charter and ExxonMobil Voy2005 Clause 35, appointed as its arbitrator Mr. David W. Martowski. By letter dated October 12, 2012, Petitioner's overseas counsel advised Respondent of Mr. Martowski's appointment and requested that Respondent name its arbitrator. A true and correct copy of the October 12, 2002 letter to Respondent's counsel is annexed as **Exhibit 1**.

9. On or about November 12, 2012, Petitioner's counsel, having not yet heard from Respondent, sent a second letter to Respondent notifying it that the undersigned had been appointed to apply to this Court for an order compelling arbitration and appointing Charterer's arbitrator. A true and correct copy of the November 12, 2012 letter to Respondent is annexed as **Exhibit 2**.

10. To date, Charterer has not responded to either the October 12, 2012 or the November 12, 2012 letters.

11. Respondent has failed to comply with Petitioner's request to name an arbitrator and proceed to arbitration for the claims arising out of the Crystal Ambra Charter.

² On or about December 11, 2012, the conversion rate of EUR to USD was 1.30. As a result, Petitioner's total claim against Respondent in relation to the Crystal Ambra Charter is approximately USD 216,582.76, exclusive of interest and costs.

BOW BALEARIA CHARTER

12. Petitioner, the disponent owner of the M/V BOW BALEARIA, and Respondent agreed to a time charter of the Vessel dated May 1, 2012, as memorialized by Fixture note 23120226 (the "Bow Balearia Charter"), for a voyage from Augusta to Rotterdam. The Bow Balearia Charter provides for freight in the amount of USD 62.00 per metric ton and demurrage in the amount of USD 9,750 per day, pro rata.

13. The Bow Balearia Charter is based on the ExxonMobil VOY2005 form. Clause 35 of the ExxonMobil VOY2005 form, entitled " Arbitration," provides that arbitration of disputes shall take place in New York pursuant to New York law. With respect to the appointment of an arbitrator, clause 35 of the ExxonMobil VOY2005 form provides:

Any and all differences and disputes of whatsoever nature arising out of this Charter shall be put to arbitration in the City of New York, pursuant to the laws relating to arbitration there in force, before a board of three persons, consisting of one arbitrator to be appointed by Owner, one by Charterer and one by the two so chosen.

14. Petitioner performed all duties arising under the Bow Balearia Charter.

15. Since the date the Bow Balearia Charter was executed, a number of disputes have arisen between the parties, including but not limited to disputes over Respondent's failure to pay Petitioner the freight and demurrage duly owing. More particularly, two (2) invoices remain outstanding as set forth below:

- a) Freight Invoice, dated May 15, 2012 (EUR 118,080.89);
- b) Demurrage Invoice, dated June 4, 2012 (USD 14,015.00);

The total that remains outstanding from Respondent with respect to the Bow Balearia Charter is EUR 118,080.89 plus USD 14,015.00.³

16. In connection with these disputes, on or about October 11, 2012, Petitioner, pursuant to the Bow Balearia Charter and ExxonMobil Voy2005 Clause 35, appointed as its arbitrator Mr. David W. Martowski. By letter dated October 12, 2012, Petitioner's overseas counsel advised Respondent of Mr. Martowski's appointment and requested that Respondent name its arbitrator. A true and correct copy of the October 12, 2012 letter to Respondent's counsel is annexed as **Exhibit 3**.

17. On or about November 12, 2012, Petitioner's counsel, having not yet heard from Respondent, sent a second letter to Respondent notifying it that the undersigned had been appointed to apply to this Court for an order compelling arbitration and appointing Charterer's arbitrator. A true and correct copy of the November 12, 2012 letter to Respondent is annexed as **Exhibit 4**.

18. To date, Charterer has not responded to either the October 12, 2012 or the November 12, 2012 letters.

19. Respondent has failed to comply with Petitioner's request to name an arbitrator and proceed to arbitration for the claims arising out of the Bow Balearia Charter.

REQUEST FOR RELIEF

20. This Court has the power to appoint an arbitrator on behalf of Respondent and order that the arbitration proceed forthwith pursuant to the provisions of the Federal Arbitration Act and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards. Title 9, United States Code, Sections 4, 5, and 206. Petitioner respectfully requests the Court exercise

³ On or about December 11, 2012, the conversion rate of EUR to USD was 1.30. As a result, Petitioner's total claim against Respondent in relation to the Bow Balearia Charter is approximately USD 167,520.15, exclusive of interest and costs.

this power and to assist the Court in its designation, a complete current listing of the members of the Society of Maritime Arbitrators, Inc. is annexed hereto as **Exhibit 5**. Biographical information for the arbitrators listed in Exhibit 5 may be found at: <http://www.smany.org/sma/memberRoster.html>. In the alternative, Petitioner requests that the Court select three alternate arbitrators, in descending order of choice in the event of conflicts or unwillingness to serve, from the present roster of the Society of Maritime Arbitrators.

21. The Petitioner has duly performed all of its obligations to Respondent in accordance with the terms of the Crystal Ambra and Bow Balearia Charters.

22. No previous application has been made to this Court, or any other court or judge, for the order and relief sought herein.

WHEREFORE, Petitioner requests that this Court issue an Order:

(i) Appointing an arbitrator on behalf of Respondent and directing Respondent to proceed to arbitration forthwith, or, upon its failure to so proceed, directing that the arbitration proceed forthwith without Respondent; and

(ii) Awarding Petitioner costs and attorneys' fees associated with this petition; and

(iii) Granting such other and further relief as may be just in the circumstances.

Dated: New York, New York
December 21, 2012



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E-mail: blythe.daly@hklaw.com
Telephone: 212.513.3200
Fax: 212.385.9010
Attorneys for Petitioner, Crystal Pool AS

To: Trefin Tankers Ltd.
Ag. Dimitriou Str. No. 41
185 46
Piraeus GREECE

#11883067_v2

EXHIBIT 1



Nordisk Legal Services

Trefin Tankers Ltd
Ag. Dimitriou Str. No. 41
18546
Piraeus
Greece

c/o Braemar Seascope Chemicals
chemicals@braemarseascope.com

Georg S. Beck, adm. direktør, advokat
Erlend G. Nafstad, direktør, advokat
Knut W. Ingvaldsen, advokat
Lasse Ø. Rasmussen, attorney, USA
Susan Clark, attorney, USA
Egil Andre Berglund, advokat
Bernard G. Rickman, solicitor, England
Michael Brooks, solicitor, England
Henrik Aadnesen, advokat
J. Hanna Ege, barrister, England
Kari L. Loe, sydl. advokat
Joanne Conway, solicitor, England
Camille Bracht, advokattilrettet, England
Norvald Rasmussen Meyer, advokat
Paige Young, attorney, USA
Yvonne MacDowall Hay, advokat
Anders Ege, advokat
Scarlett Herwood, solicitor, England

Nordisk Legal Services Pte. Ltd
Magne Andersen, direktør, advokat
June McWilliams, solicitor, England
Tom Pullum, solicitor, England

Your ref.:

Our case no : 20122219 EAB

Date: 12 October 2012

Please quote case no. in all correspondence

VIA Electronic Mail and Registered Post

Crystal Pool AS - Crystal Ambra - Trefin Tankers - CP dated 07/03/2012

Further to our earlier correspondence, we now give you notice on behalf of Chrystal Pool AS, owners under the above charterparty, that we have commenced arbitration proceedings against you.

Please be advised that we have appointed Mr. David W. Martowski as owners' arbitrator in respect of any and all disputes arising under or in connection with the charterparty. His contact details are set out below:

David W. Martowski
91 Central Park West
New York, NY 10023
USA
dmartowski@verizon.net

Clause 35 of the Charterparty calls for all disputes to be referred to three arbitrators in New York. The said clause further provides that the Charterparty shall be subject to New York Law and the Owners request that the Charterers also agree that the arbitration be conducted pursuant to the rules of the SMA.

We now call upon you to nominate the charterer's appointed arbitrator in accordance with Clause 35 of the charterparty. Please be advised that your failure to nominate an arbitrator within 20 days will result in an application to the courts to have one appointed for you.

Please also note that unless you apply to stay the arbitration within twenty days after service you shall thereafter be precluded from objecting that a valid agreement was not made or has not been complied with and from asserting in court the bar of a limitation of time.



Nordisk Legal Services

We look forward to hearing from you.

Yours faithfully,
Nordisk Legal Services



Paige Young / Egil Andre Berglund

PYO/mkr

EXHIBIT 2



Nordisk Legal Services

Chartering Department
Trefin Tankers Ltd
Ag Dimitriou Str No 41
185 46
Piraeus
Greece
ops@trefintankers.gr

c/o Braemar Seascope Chemicals
chemicals@braemarseascope.com

For the direct advice
of the director of the
company, the following
associates are available
Susan Clark, attorney
Egil Andre Berglund, advocate
Berard C. Jackson, solicitor
Michael Brooks, solicitor
Henrik Andersen, advocate
John V. Jones, England
Valerie Knight, New York
Jonathan W. Solicitor, England
Sam H. Bacht, advocate, England
Norman Harris, attorney, USA
Lige Young, attorney, USA
Ylva MacDowall, solicitor
Anders Fyfe, advocate
Scarlett Herwood, solicitor, England

Nordisk Legal Services Pte Ltd
Magne Andersen, director, advocate
Jude McWilliams, solicitor, England
Tom Pullin, solicitor, England

Your ref

Our case no 20122219 EAB

Date 12 November 2012

Please quote case no in all correspondence

VIA Electronic Mail and Courier

Crystal Pool AS – Crystal Ambra - Trefin Tankers - CP dated 07/03/2012

Reference is made to our letter dated 12 October 2012 to which we have received no response. The Charterers have also failed to appoint their designated arbitrator in accordance with Clause 35 of the Charterparty after the Owners appointed Mr David Mariowski as their designated arbitrator. Consequently, we hereby give you notice that we have directed Mr Chris Nolan of the firm Holland and Knight in New York to apply to the Court to have an arbitrator appointed on your behalf in accordance with the Charterparty and the Federal Arbitration Act.

For the sake of good order we have attached hereto a copy of our letter dated 12 October 2012 and are sending both via email and registered mail. If you have not received our previous correspondence or would now like to participate in these proceedings, we would urge you to contact us immediately.

Yours faithfully,
Nordisk Legal Services

Purge Young
Purge Young / Egil Andre Berglund

PYO/mkr

EXHIBIT 3

[illegible]

Nordisk Legal Services Pte Ltd
Magne Andersen direktør advokat
Jude McWilliams solicitor, England
Tom Pullin solicitor England

Date 12 October 2012

Please quote case no in all correspondence

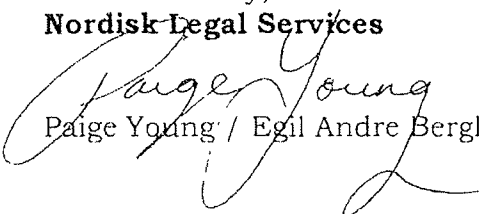


Nordisk Legal Services

We look forward to hearing from you.

Yours faithfully,

Nordisk Legal Services



Paige Young / Egil Andre Berglund

PYO/mkr

EXHIBIT 4



Nordisk Legal Services

Chartering Department
Trefin Tankers Ltd
Ag Dimitriou Str No 41
185 46
Piraeus
Greece
ops@trefintankers.gr

c/o Braemar Seascope Chemicals
chemicals@braemarseascope.com

Your ref

Our case no 20122219 EAB

Date 12 November 2012

Please quote case no in all correspondence

VIA Electronic Mail and Courier

Crystal Pool AS – Bow Balearia - Trefin Tankers - CP dated 01/05/2012

Reference is made to our letter dated 12 October 2012 to which we have received no response. The Charterers have also failed to appoint their designated arbitrator in accordance with Clause 35 of the Charterparty after the Owners appointed Mr David Martowski as their designated arbitrator. Consequently, we hereby give you notice that we have directed Mr Chris Nolan of the firm Holland and Knight in New York to apply to the Court to have an arbitrator appointed on your behalf in accordance with the Charterparty and the Federal Arbitration Act.

For the sake of good order we have attached hereto a copy of our letter dated 12 October 2012 and are sending both via email and registered mail. If you have not received our previous correspondence or would now like to participate in these proceedings, we would urge you to contact us immediately.

Yours faithfully,
Nordisk Legal Services

Paige Young
Paige Young / Egil Andre Berglund

PYO/mkr

Court, School adm nek or advokat
rode Grunov direktor advokat
Knut Klingve advokat
Lasse Blatase at orry USA
Susan Clerk at orry USA
Egil Andre Berglund advokat
Jensrud Gjesm at orry England
Michael Boks at orry England
Erik Aadnes at orry England
Jensrud Gjesm at orry England
Joanne Corway at orry England
Camilla Braef at orry England
Norman Hars at orry England
Paige Young at orry USA
Ylva McDowell Hars at orry England
Anders Lige at orry England
Sverre Hennestad at orry England

Nordisk Legal Services Pte Ltd
Magnus Andersen direktor advokat
Jude McWilliams solicitor, England
Tom Pullin solicitor England

EXHIBIT 5

SOCIETY OF MARITIME ARBITRATORS, INC

30 Broad Street - 7th Floor • New York, NY 10004

ARNOLD, Manfred W.
BERG, Jack
BEYS, Petros M.
BHUSHAN, Mukul
BLAIR, Capt. Daniel M.
BLAKE, George C.
BONTEMPS, Capt. Thomas J.
BOWDERY, Allan G.
BRADSHAW, Thomas J.
BULOW, Lucienne Carasso
BUSCH, Stephen H.
BUTCHER, James E.
CARROLL, Ronald T.
COUTSODONTIS, Stylianos L. (Steve)
CUNEO, Joseph J.
CUSHING, Charles R., PhD, P.E.
DESMOND, Gerard T.
DEVINE, John J. Jr.
DOOLEY, Austin L.
FABRIKANT, Charles
FACKLER, D. Michael
FLYNN, Robert John
FOX, Thomas F.
FROST, Donald B.
GEORGES, Jerry
GREENLEES, J.N. (Jamie)
HALPIN, Harold J.
HAND, Michael J.
HANSEN, Svend H., Jr.
HARRIS, Jonathan P.
HARTMANN, Peter W.
HAWKINS, Nigel J.
HOOD, James N.
KIMBALL, Philip B.
MANNION, Gerald M.
MARTOWSKI, David W.
MEASTER, Charles L.
MEEHAN, Robert C.
MORDHORST, Klaus C.J.
MUFF, Walter R.
NERGAARD, Bengt E.
NICHOLS, Alexis
NORTHMORE, Michael J.
NORZ, Charles H.
NOTIAS, Nicholas X.
NOTTINGHAM, Milton G., Jr.
PAPPAS, Katherine A.
PENDER, Thomas P.
POE, Eddie J.
QUINN, William H.
RING, John F., Jr.
RUDOLPH, Richard E.
SANTINI, Basil A.
SHAW, Robert G.
SICILIANO, A.J.
SONDHEIM, Herbert
SPAULDING, Jr., Robert J.
SPITZ, C. Eugene
SZOSTAK, Donald J.
TSAGARIS, Constantine (Dean)
TYD, Robert W.
UMBDENSTOCK, Robert P.

van GELDER, Michael A.
VENTURAS, Evangelos
WARFIELD, James J.
WHEELER, Wesley D.
WINER, Joseph H.
WISWELL, Peter S.
WOLMAR, Soren
YEARWOOD, Donald R.

VOUCHER	INVOICE	INVOICE DATE	AMOUNT
2576337	823067	12/19/12	350.00
500177-03318			
TOTAL			\$350.00

Court Name: District Court
Division: 1
Receipt Number: 465401856294
Cashier ID: Clapsley
Transaction Date: 12/27/2012
Payer Name: HOLLAND AND KNIGHT LLP

CIVIL FILING FEE
For: HOLLAND AND KNIGHT LLP
Amount: \$350.00

CHECK
Check/Money Order Num: 01
Amt Tendered: \$350.00

Total Due: \$350.00
Total Tendered: \$350.00
Change Amt: \$0.00

12CV9417(RA)